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February 28, 1992

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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FCC MAIL ROOM

Secretary
Federal Communications Commission
Rm. 222
1919 M St. N. W.
Washington, D. C. 20554

To: The Commission

Enclosed are the original and five copies of the exhibit which accompanies the reply comments of the City of New Orleans in the matter of the implementation of Section 8 of the Cable Television Consumer Protection and Competition Act of 1992. The Docket number of the reply is MM DOCKET NO. 92-263.

Please accept my apology for sending the exhibit late. Thank you for your cooperation and patience.

Sincerely,

William T. Abbott

William T. Abbott.

M M Docket No. 92-263

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ORDINANCE
CITY OF NEW ORLEANS

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

CITY HALL: November 19, 1992

CALENDAR NUMBER: 18,239

NO. _____ MAYOR/COUNCIL SERIES

BY: COUNCILMEMBER GIARRUSSO

AN ORDINANCE to amend Chapter 52 of Ordinance 828 M.C.S. as amended, known as the Code of the City of New Orleans, by adding thereto a new Article X to provide that each franchised cable television operator in Orleans Parish be governed by the following procedures for cable consumer complaints and to otherwise provide with respect thereto.

SECTION 1. THE COUNCIL OF THE CITY OF NEW ORLEANS HEREBY ORDAINS That Article X of Chapter 52 of Ordinance 828 M.C.S., as amended, known as the Code of the City of New Orleans, be and is hereby ordained to read as follows:

Section 52-500. THE COUNCIL OF THE CITY OF NEW ORLEANS HEREBY ORDAINS that these provisions shall be known and may be cited as the "Cable Consumer Complaint Procedures" of the City of New Orleans.

SECTION 52-501. Scope of Provisions. THE COUNCIL OF THE CITY OF NEW ORLEANS HEREBY ORDAINS that the purpose of these provisions and the intent of their adoptions is to provide for resolution of cable consumer complaints, remedies for inadequate service or service deficiencies, penalties for violations of material franchise terms by a cable company franchised to operate within the Orleans Parish and to make said provisions readily accessible to cable consumers by recourse to the City Code, pursuant to and consistent with the Cable Television Consumer Protection and Competition Act of 1992.

SECTION 52-502. THE COUNCIL OF THE CITY OF NEW ORLEANS HEREBY ORDAINS that franchisee shall maintain a local office, within franchisee's service area, open to the public during

regular business hours, Monday through Friday, except holidays. Office hours shall be posted at the office location. Franchisor shall be notified of hours of operation. In addition, franchisee shall have the capacity of receiving service calls twenty-four hours a day, seven days a week.

SECTION 52-503. THE COUNCIL OF THE CITY OF NEW ORLEANS HEREBY ORDAINS that franchisee shall submit to the City Council for approval, within thirty days of the enactment of this ordinance, procedures the franchisee intends to implement for receiving, acting upon and resolving consumer complaints. Procedures approved by the City Council may not be altered without approval of the City Council.

SECTION 52.504. THE COUNCIL OF THE CITY OF NEW ORLEANS HEREBY ORDAINS that franchisee shall provide written notice to each new subscriber, at the time of initial service, of the procedures for placing a service call or other complaint and the related consumer protection sanctions. Annually thereafter, all subscribers shall be notified in writing of the existence and availability of such procedures. The notice shall include the name, business address and business telephone of the office of the franchise established to handle such problems. The notice shall also include information regarding service response times.

SECTION 52-505. THE COUNCIL OF THE CITY OF NEW ORLEANS HEREBY ORDAINS that franchisee shall provide service response twenty-four hours a day, seven days a week, for all complaints and requests for repairs or adjustments. Calls involving loss of reception on all channels shall be responded to immediately. Calls concerning degraded reception, including channel outages, shall be responded to within twenty-four hours unless they can be attributed to the subscriber or user, or when it is beyond the franchisee's control as in the case of a defective satellite signal. If franchisee declares under penalty of perjury that the outage was beyond franchisee's control, there will be no penalty levied against the

franchisee for interruption of service.

SECTION 52-506. THE COUNCIL OF THE CITY OF NEW ORLEANS HEREBY ORDAINS that franchisee shall maintain a daily record or "log" listing date and time of customer complaints or requests for service, describing the nature of the complaint or request for service, and when and what action was taken by the franchisee in response thereto, including the time the complaint was received and the time it was "cleared". Such records shall be kept in franchisee's local office for a period of at least three years, and shall be available for inspection by the city during regular business hours without special or advance notice or demand.

SECTION 52-502. THE COUNCIL OF THE CITY OF NEW ORLEANS HEREBY ORDAINS that franchisee shall specify a four-hour time period for all installation or service appointments. If the franchisee's service technician is unable to keep an appointment concerning installation or for other service, the franchisee shall call and advise the subscriber of the delay, and attempt to reschedule the appointment. If such a call is made or if franchisee declares under penalty of perjury that the call was made and no one answered, or if the call cannot be completed for any other cause beyond the control of the service technician, there will be no penalty levied against franchisee for failure to meet the timing requirements.

If the franchise fails to advise the subscriber of the delay and fails to keep an appointment concerning installation of service, the franchisee shall be subject to a penalty pursuant to Section 52-510 (d) of this ordinance.

If the franchise advises the subscriber of the delay and sets a second appointment, but fails to keep the second appointment concerning installation for whatever reason, franchisee will be subject to a penalty pursuant to Section 52-510 (e) of this ordinance.

For any type of service appointment other than

installation, if franchisee fails to call the subscriber in the event of a delay resulting in a missed appointment, the franchisee shall be subject to a penalty pursuant to Section 52-510 (f) of this ordinance.

If a dispute arises regarding a missed appointment, the franchisee shall provide to the Director of the Department of Utilities all pertinent business documentation concerning the scheduling of the appointment. The normal business records of the franchises shall be available for this purpose.

Section 52-508. THE COUNCIL OF THE CITY OF NEW ORLEANS HEREBY ORDAINS that in the event that a customer complaint or service problem is not resolved to the mutual satisfaction of the customer and the franchisee, either the customer or the franchisee may request, through the Director of the Department of Utilities that the matter be presented to an arbitration panel which shall meet for hearing and resolution. The panel shall consist of three individuals, one selected by the franchisor, one by franchisee and one neutral individual. The neutral member shall be selected by the other two arbitrators acting jointly. Notice regarding hearing shall be given to all interested parties by the franchisor. All costs of arbitration shall be borne by the franchisee. The decision of the arbitration panel shall be final and binding on all parties.

Section 52-509. THE COUNCIL OF THE CITY OF NEW ORLEANS HEREBY ORDAINS that when, in the judgment of the Director of the Department of Utilities, there have been similar complaints or service problems, or where there exists other evidence which casts doubt on the reliability of quality of the cable service being provided, the Director of the Department of Utilities shall have the authority to compel the franchisee to test, analyze and report on the performance of the parts of the system which appear to be involved in the problems. The Director of the Department of Utilities shall notify the franchisee in writing of the need to test the

system. Such tests may be conducted by the franchisee, but the franchisor reserves the right to direct that such tests be made by an independent consultant retained by the franchisor but paid for by the franchisee. Tests shall be conducted consistent with the standards set forth in the franchisee agreement. The investigation of the problems shall be completed within thirty days of the date of formal notification. Reports on the investigation shall be delivered to the franchisor no later than fifteen days after completion of testing. The reports shall include the following information:

- a. Nature of the complaints or service problems which precipitated the special tests;
- b. System components tested;
- c. Equipment used and procedures employed in such testing;
- d. Test results;
- e. Method by which complaints or service problems were resolved; and
- f. Any other information pertinent to the special testing also shall be recorded.

The franchisor's right under this provision shall be limited to requiring tests, analyses and reports covering specific subjects and characteristics based on complaints, service problems or other evidence which provide the franchisor with reasonable grounds to believe testing necessary to protect the public against substandard cable service.

SECTION 52-510. THE COUNCIL OF THE CITY OF NEW ORLEANS HEREBY ORDAINS that the following remedies and penalties for system installation delays, for inadequate or untimely service, or for interruption of service, are hereby established:

- a. In the event that service to any subscriber is interrupted for twenty-four consecutive hours or

more, except for natural disasters, and except in circumstances for which approval of the interruption is obtained from the Director of the Department of Utilities, franchisee shall provide a twenty-percent credit of the monthly fees for each twenty-four hour period, or fraction thereof, of interruption to the affected subscriber for each month in which an interruption occurred.

- b. In the event that degraded reception, i.e., poor quality reception, is a result of technical deficiency of the system and not caused by the equipment of the subscriber or user, the franchisee shall credit the subscriber with twenty percent of the monthly fee for each twenty-four hours, or fraction thereof, a subscriber has a picture quality problem.
- c. In the event that the system fails to meet one or more of the operational standards detailed in the franchise agreement and for which a performance test has been requested pursuant to Section 52-509 of this ordinance, for a full three-month period franchisee shall reduce fees to all subscribers by twenty-five percent until all operational standards are met. Notification to conduct a performance test pursuant to Section 52-509 of this ordinance shall be the date upon which the three-month period consumers.
- d. Failure to advise consumer of delay in appointment for installation or to keep second appointment: Free installation.
- e. Failure to advise consumer of delay in appointment for service when such delay is in control of franchisee or to keep second

control of franchisee or to keep second appointment. One month's free basic service.

- f. Unauthorized disconnection of service by cable operator or its agent: \$30 per subscriber per day.

SECTION 3. If any section or part of this ordinance is for any reason held to be unconstitutional or unlawful or held to be in conflict with Ordinance 7474 M.C.S., as amended and/or Ordinance 8205 M.C.S., as amended, or held to be in conflict with any federal agency standards for customer service requirements promulgated pursuant to the Cable Television Consumer Protection and Competition Act of 1992 such holding shall not affect the validity of remaining portion of the ordinance, which remaining portion shall remain in full force and effect.

ADOPTED BY THE COUNCIL OF THE CITY OF NEW ORLEANS _____

PRESIDENT OF COUNCIL

DELIVERED TO THE MAYOR ON _____

APPROVED:
DISAPPROVED: _____
MAYOR

RETURNED BY THE MAYOR

ON _____ AT _____

CLERK OF COUNCIL